

ALPINE ZONING BOARD OF ADJUSTMENT

Thursday, November 15, 2012 - 7:30 P.M.

(This meeting was taped in its entirety).

CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT

This regular meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Richard Glazer at 7:32 p.m., Thursday, November 15, 2012 at the Alpine Borough Hall, the Pledge of Allegiance recited and the Public Announcement read according to the requirements of the Sunshine Law: *In accordance with the provisions of the Open Public Meetings Law, the notice of this regular meeting held Thursday, November 15, 2012 has met the requirements of the law by being published in The Record as part of the Annual Notice on January 6, 2012, posted on the bulletin board in the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk.*

ROLL CALL

Richard Glazer	Present	Bob Burns	Present
Tony Clores	Present	David Kupferschmid	Absent
Ann Ronan	Absent	Richard Bonhomme	Present
Larry Shadek	Present	Steve Cohen, Alt I	Absent
		Anthony Barbieri, Alt II	Present

Present on the dais: Matthew Earle for Michael Kates, Board Attorney,
Gary Vander Veer, Borough Engineer, Nancy Wehmann, Board Secretary

NEW MATTER

KIM BLOCK 60 LOT 4 – 27 Forest Street

Mr. Clores recused himself as he lives within 200 feet of the subject property and stepped down from the dais.

Matthew G. Capizzi, Esq. with offices at 11 Hillside Avenue, 2nd Fl., Tenafly, NJ 07670 appeared with and on behalf of the **Applicant, Dr. Sean Kim** of 27 Forest Street, Alpine, NJ 07620. The witnesses called on behalf of the Applicant were **Douglas Doolittle, PE, PP** of McNally Engineering, 169 Ramapo Road, Oakland, NJ 07436 and **S. Joseph Termotto, Architect** of 560 Sylvan Avenue, Englewood Cliffs, NJ 07632.

Neighbors speaking to the application included **Glenn Woertz** of 31 Forest Street and in opposition, **John Passante** of 14 Forest Street.

The following exhibits were marked into evidence:

- A – 1 Proof of Publication The Record 11-1-2012
- A – 2 Notice to Residents within 200'feet 11-2-2012
based on Tax Assessor List 8-16-2012
- A - 3 Application received 9-20-2012 signed by owner includes:
 - Proposal & reason for relief
 - Proof taxes paid through 2012 4th quarter
- A - 4 Zoning Officer's letter dated 9-12-2012
- A - 5 Photos – set of four
- A – 6 Soil Moving Permit Application – undated, unsigned (89.19 cy)
- A – 7 Storm Drainage Report 7/30/2012 prepared by Matthew A. Greco, P.E. of
McNally Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436

- A – 8 Set of Plans consisting of two pages prepared by Matthew A. Greco, P.E. of McNally Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436
- SP-1 entitled "Site Plan/Septic System Plot Plan" dated 6/18/2012 no revisions
 - VM-1 entitled "Vicinity Map" dated 6/18/2012 no revisions.
- A – 9 Architectural Drawings consisting of 3 pages prepared by S. Joseph Termotto of S Joseph Termotto Architects and Planners, 560 Sylvan Avenue, Englewood Cliffs, NJ 07632 dated 8/21/2012
- A – 1 First Floor Plan
 - A – 2 Second Floor Plan
 - A – 3 Front Elevation (South Side) and Left Side elevation (West Side)
- A – 19 Borough Engineer's Letter dated 10/1/2012

And during the course of these proceedings photos submitted by neighbor Glenn Woertz marked:

- O-1 Two photos of the property line marker and fence between Mr. Woertz and Dr. Kim's properties.
- O-2 Two photos depicting close-ups of the same fence.

Mr. Capizzi advised this application is unique as the two car detached garage was found to reside over the gray water septic system which is now in failure. The garage will have to be demolished to repair the field ergo they seek to construct a new two car garage attached to the single family dwelling with a second story addition.

Three variances will be required:

- 1) Improved coverage 22.06% where 23.87% is the pre-existing nonconformity and 20% is permitted.
- 2) Building coverage 12.81% where 10% is permitted and 8.89% currently exists. While the footprint of building on site would essentially be the same, by attaching the garage it must now be included as building coverage.
- 3) Retaining wall 3 feet from pavement where 10 feet is required. This was noted during attorney / zoning officer review; they request the application be deemed amended to reflect.

Douglas Doolittle, PE, PP, was sworn and, having appeared before the Board numerous times, deemed qualified to provide expert testimony in his fields.

Referring to a mounted version of his plan [A-8], Mr. Doolittle described the existing conditions. The property is located on the north side of Forest Street. A single family dwelling stands alone on the east side of the property and faces south. There are three existing nonconformities consisting of a small detached garage located forward of the front yard setback line on the west side of the property and a small shed and patio located close to the rear lot line. There are also some other minor retaining walls, walks and patios. Existing improved coverage is 23.87%.

The property generally slopes from east to west and towards Forest Street. There are two septic systems in the rear yard: the functioning black water system to the east which is about 20 years old and the gray water system to the west, also at least 20 years old or perhaps more. This system was found to lie behind and technically underneath

the existing garage and includes a partially caved in septic tank/cesspool. They've placed a metal plate over the opening temporarily for safety. The D-box and laterals head directionally towards the street and to the south and, they believe, traverse under the garage; they could not depict the entire area. It is very small in size and in failure.

They propose to raze the three existing nonconformities: the shed, patio and the garage which is too small to be practical; they currently park their cars outside. The plan is to construct a new two car garage with a second story attached to the home.

The gray water system would be repaired in essentially the same location bringing it as close to code as possible. Mr. Glazer questioned why it would not be required to strictly meet the code. Mr. Doolittle explained because it is a repair and not an expansion or new construction, they are permitted more flexibility. The home is and will remain a four bedroom house. Mr. Vander Veer affirmed noting while the system does not comply with many portions of the code, the proposed is a significant improvement over the failed system as it now exists. Mr. Bonhomme observed this system is currently less than fifteen feet from a Demarest Brook tributary. Mr. Doolittle explained in order to protect the watercourse they propose to move the system 11 feet closer to the street and, if needed as determined during construction, they will reshape the field by slashing off the corner and also install a pond liner.

A seepage pit will be installed in the front yard to collect runoff from the roof that currently just sheets off to the west and out into the street. This will bring the stormwater runoff into compliance relative to the improved lot coverage.

A building coverage variance is triggered by attaching the garage to the main dwelling although the change in footprint is *de minimus*. The proposed plan eliminates the prior nonconformities and meets all the setback requirements.

Chairman Glazer opened the hearing for public questions.

Glenn Woertz, neighbor to the immediate east questioned the distance of the seepage pit to the street. Mr. Doolittle acknowledged the pit would be located close to the lot line but technically conforms as this is a street right of way line and not a side lot line where ten feet is usually the minimum.

John Passante, resident of and part owner of 14 Forest Street, asked if the garage would have one or two bays and Mr. Doolittle replied two doors, similar to what is there now.

Chairman Glazer asked if the Board had any questions.

Mr. Vander Veer asked if Mr. Doolittle had reviewed his letter of October 1, 2012 [A-19] and if they had any issues with the list of required revisions/supplements. Mr. Doolittle believed they could work with all of them. Mr. Vander Veer noted the riparian zone appears to be a previously disturbed area and as the proposed work is of a minor nature, a DEP Permit for disturbance would not be required. However, they should obtain and provide a Permit by Rule letter to the NJS DEP since the septic system is within a certain distance from the watercourse. Mr. Doolittle affirmed.

Mr. Burns questioned a note that if the septic system was located in the riparian zone it might have to be raised three feet. Mr. Vander Veer advised that would be the requirement for full compliance with the septic code pertaining to separation from rock or water table. However, he believes it makes more sense in this instance to expand the field at essentially the same grade so they don't trigger the need for retaining walls or increased stormwater controls to counter manmade slopes. This is permissible under the code as a repair versus new construction and the septic system should function.

Mr. Glazer questioned the size of the new field. Mr. Doolittle advised it would be about the same size but will be reshaped and moved 10-11 feet closer to the street. The existing field is 21 feet from the street and the allowable distance is ten feet. They're goal is to provide 25 feet between the watercourse and the field by re-locating and re-shaping after which it will be a simple matter to obtain the DEP Permit by Rule. He's sure the system will function well.

Mr. Burns questioned location of the stream. Using [A-8] Mr. Doolittle demonstrated how the watercourse angles through the north corner of the rear yard and then makes a sharp right turn on Lot 3 angling off into the neighbor's rear yard; thus moving the field forward and skewing the corner will increase the distance between the field and the stream.

By way of perspective, Mr. Glazer posited if they separated the garage from the house by one inch it would technically comply with the building coverage.

Mr. Bonhomme questioned if the proposed maximum improved coverage of 22.06% included the removal of the shed, associated patio area and sidewalks. Mr. Doolittle affirmed noting the proposed will reduce what currently exists.

Mr. Capizzi asked Mr. Doolittle to address the variance for the retaining wall. Mr. Capizzi explained this situation, not mentioned in the zoning review, was picked up during a recent meeting he had with Zoning Officer Blackwell; he requested the application be deemed amended to include this variance. Mr. Doolittle noted they seek to slide the existing retaining wall to the east to be in line with the proposed garage doors and driveway. This wall is within 3 feet of the road pavement where 10 feet is permitted. The purpose is to retain the uphill slope and keep a smooth grade coming in the driveway. The wall will not add to the improved coverage.

Mr. Capizzi advised they had spoken with the neighbor, Mr. Woertz, about his concerns with disrepair of the fence and the Applicant is willing to remove this fence along the easterly property line as a condition of approval.

S. Joseph Termotto, Architect was sworn and testified he has a Bachelors degree from Pride Institute School of Architecture, has held a NJS license since 1964. He has appeared before numerous local Boards and served in the past on Cresskill's Planning Board.

Referring to his drawings [A-9], Mr. Termotto described their proposal:

The first floor will remain the same with a couple of minor changes: removal of a kitchen window where the addition connects, installation of a sliding glass door from the dining room to a new wood deck in the rear and a 3 foot covered roof extension for the front entrance to shelter visitors. The first floor addition consists of the new two car garage and some storage areas.

On the second floor he noted a prior renovation transformed a front bedroom into a study and the new addition will provide for a new bedroom/library and bath. The main stairwell will not be modified. The new section will be accessed by a few steps down from the second floor landing. This is intentional as the idea is to create near mirror images of the right and left sides of the house with roof lines that are a little lower and set back from the central part of the dwelling. They also hope to find and match the existing stone material throughout the exterior. The left side will have no windows. The new garage will be more aesthetically pleasing than the existing outdated, flat-roofed one as well as being more functional; they will be able to park their SUVs inside and access the house directly from the garage, a plus in inclement weather.

The hearing was opened to the public and the Board for questions of the architect. There were none.

Mr. Capizzi recalled Mr. Doolittle for planning testimony. He reviewed the three variances requested. He noted the positive criteria of bringing a failing gray water septic system into substantially better compliance and the benefits of replacing the small detached garage which is not really functional with an attached garage that is more practical particularly during bad weather enabling them to park their cars inside. The seepage pit will reduce runoff below what is required for the improved lot coverage. The proposed plan reduces existing improved coverage and eliminates three existing nonconformities. They're creating a nicer streetscape, bringing a property made up of scattered structures into a more cohesive whole. He does not see any detriments to the community.

Mr. Bonhomme requested specifics regarding repair of the gray water system. Mr. Doolittle explained the old system will be pumped out, the tank collapsed and removed, then buried on site as required by code. They will, if indicated in the field, install a pond liner around two or three sides to eliminate any effluent from going out the side wall towards the stream. Mr. Glazer asked if they could make this a condition. Mr. Doolittle conceded they could but offered the determination is usually made with the Borough Engineer in the field.

The meeting was opened to the public for questions or comments.

John Passante was sworn and stated his strong opposition to the application. He noted although the Applicant's engineer stated the differential in lot coverage will be *de minimus*, the proposed home will have tremendous bulk and volume. This application is not merely about moving two garage bays such that they're attached to the home because they're also expanding the master bedroom and putting a library over the garage. Although the Applicant denuded the lot by removing three massive oak trees over the past year, he thinks the home as it remains among the most

charming in Alpine. He feels if Dr. Kim wants a larger home with an attached garage the family should buy a larger plot of land.

Glen Woertz was sworn. Mr. Woertz's concern was with Mr. Kim's fence that lies between the two properties. The prior owner had assured him the fence was 9 inches within their lot line and the fence did not appear on his 1990 topographical survey. He pointed out Dr. Kim's plan shows the fence on or near their common lot line, yet stakes placed by Dr. Kim's surveyor show the fence encroaches 1-2 feet onto his property. The fence is in disrepair: rotting, falling down and a danger to his young grandchildren who frequently play in the yard and have been scratched by it. He provided photographs marked O-1 depicting the fence in relation to the property stakes and O-2 broken splintered sections of the fence. Although they've had discussions about removing the fence over the past year it's still there. Mr. Capizzi consulted with Dr. Kim and assured Mr. Woertz the fence would be removed within 30 days.

There were no further public comments or questions.

Chairman Glazer noted while Mr. Passante might not be pleased with the aesthetics of the new look, points made regarding runoff, coverage, health, and the stream may make this a better plan. Mr. Burns concurred. Appropriate conditions were discussed.

Resolution: Upon a motion by Mr. Shadek, seconded by Mr. Barbieri to approve the application subject to the usual conditions plus 1) removal of the fence and 2) provisions of a pond liner for the septic system if required by the Borough Engineer.

Vote: Ayes: Burns, Barbieri, Bonhomme, Shadek, Glazer **Nays:** None

Dr. Kim was reminded to remove the fence as soon as possible.

MEMORIALIZATIONS - ALPINE CITGO BLOCK 49 LOT 8 – 1026 Closter Dock Road

Attorney Earle circulated and reviewed the resolution memorializing action taken at the July 21st meeting.

Resolution: Upon a motion by Mr. Bonhomme, seconded by Mr. Clores at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, November 15, 2012 to memorialize a resolution for Alpine Citgo approving an application for a d(2) variance (expansion of a nonconforming use) to operate a convenience store in an existing motor vehicle service station subject to strict conditions as outlined in the resolution for this property located at 1026 Closter Dock Road designated as Block 49 Lot 8 on the Tax Assessment Map of Alpine, New Jersey, Bergen County.

VOTES: AYES: Bonhomme, Clores, Burns, Glazer

MOTION CARRIED

A copy of the resolution is appended to these minutes.

PROCEDURAL MOTIONS

APPROVAL OF MINUTES **Resolution: Regular Meeting July 19, 2012** Upon a motion by Mr. Barbieri, seconded by Mr. Bonhomme and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, November 15, 2012 to approve the minutes of the regular meeting held on July 19, 2012. **MOTION CARRIED**

Resolution: Approval of Bills and Claims Upon a motion by Mr. Clores, seconded by Mr. Shadek and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, November 15, 2012 to approve the following Bills and Claims:

Azzolina & Feury Engineering	Siboni 22/1	Inv. 58169	374.50
Azzolina & Feury Engineering	Alpine Citgo 49/8	Inv. 58166	240.75
North Jersey Media Group	Siboni 22/1	Ref. 3335832 (Escrow)	16.06
Office Business Systems	Headphones	Inv. 169402-1	28.45
Azzolina & feury Engineering	Kim 60/4	Inv. 58557	401.25
Kates, Nussman, Rapone Ellis & Farhi	Retainer	2-01-21-185-021	200.00

MOTION CARRIED

Resolution: Approval of Return of Escrow Upon a motion by Mr. Barbieri, seconded by Mr. Clores and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, November 15, 2012 to return the following escrows which have been reviewed and approved by the Board Attorney and Borough Engineer.:

Kogan Trust AC 70108	Block 39.01 Lot 9.05 21 Robin Lane	Application 10/11/2011 Resolution 5/17/2012	\$625.34
Patel Trust AC 70113	Block 121 Lot 3 Route 9W	Application 4/24/2012 Resolution 6/21/2012	\$231.96

MOTION CARRIED**COMMUNICATIONS**

Secretary Wehmann advised for the Board's information P.L. 2008 c.78 Approved 09/19/2012 Amends C:40:55D-136.2 (Permit Extension Act) further extends existing government permits/approvals through December 31, 2014.

Mayor Tomasko was recognized and reported on the following:

1. Introduction of County PW Operations Director and former Demarest Councilman, Tom Connolly present tonight as a friend of Dr. Kim.
2. Mayor Tomasko reminded the Board septic plans prepared by McNally Engineering are reviewed by Borough Engineer, Gary Vander Veer, rather than Health Officer Bill Galdi whose son is a partner with McNally. Mr. Vander Veer may and is encouraged to consult with Mr. Galdi as needed.
3. The recent serious weather (Hurricane Sandy) is the first time he recalled the entire town lost power. In light of the potential for more applications the Mayor

has asked the Zoning Officer to draft a ordinance clarifying the guidelines and regulations for installing generators.

4. Councilman Sid Merians has retired and the Mayor and Council have appointed John Halbreich to fill this position. Mr. Halbreich is a fully qualified firefighter who has lived in the town for 10-12 years. He has made a difference in a myriad of ways and they are gratified by his commitment to want to do more.

Also, in light of the recent severe storm, Mr. Bonhomme expressed concern with the number of large trees that uprooted and fell. He's deduced this situation is worsened when development on a property weakens the root systems in the tree buffer making it more likely remaining trees will uproot during future storms. He noted property owners are typically precluded from disturbing the tree buffer. Mr. Vander Veer noted uprooted trees are often found to have a shallow root system due to the high rock elevations in Alpine and the ordinance prohibits removal of trees in the buffer unless relief is granted. Trimming alone is not a solution once the trees reach a certain size. Mr. Burns noted the utility companies have tree trimming programs but these would only involve trees near wires. Mayor Tomasko clarified in matters of safety obtaining a permit should not be a problem. Particularly in light of recent storms, the Environmental Commission, who reviews tree permit applications, has been understanding and more flexible. Mr. Vander Veer noted the applicant would have to make his case for the safety issues and the Environmental Commission would likely require replacement trees be planted as part of the permit approval.

Mr. Burns asked the Mayor to pass on to Council that the Alpine DPW did a wonderful job cleaning up after the storm. Mayor Tomasko acknowledged they are fortunate to have committed employees such as Ralph Wehmann, Jerry Beckmann, Charles A. Hoffmann, Josh Schneeweiss and their respective departments. Mr. Bonhomme stated he liked the online updates. It was noted Mr. Connolly and the County were also very cooperative during the storm.

ADJOURNMENT at 8:38 p.m. upon motion by Mr. Shadek, seconded by Mr. Clores and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary